

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:02-00241-03

KEVIN IVAN ANTHONY

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's motion to modify his fine payment schedule. (Doc. # 585). In his motion, defendant asks the court to be allowed to pay his fine in quarterly installments of \$25.00 because of his inability to pay the fine in monthly installments of \$25.00.

18 U.S.C. § 3572(d)(3) provides in relevant part:

A judgment for a fine which permits payments in installments shall include a requirement that the defendant will notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay the fine. Upon receipt of such notice the court may, on its own motion or the motion of any party, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.

Therefore, this court is permitted to adjust defendant's fine payment schedule if there has been a material change in the defendant's financial situation that affects his ability to pay his fine. See United States v. Robinson, 533 F. App'x 113, 114 (3rd Cir. 2013). According to defendant, he receives no financial assistance from outside sources and that he satisfies his fine payments solely through his prison earnings. Defendant states that he has been allowed to make quarterly payments for

the last ten years. Defendant further contends that he will be unable to buy hygiene and health care items if he is required to make monthly payments of \$25.00.

Based on the foregoing, the court finds that there has been a material change in defendant's financial situation such that the interests of justice require that his fine payment schedule be modified. Accordingly, defendant's motion to modify his fine payment schedule is **GRANTED** and the court hereby orders defendant's judgment order of December 12, 2005, amended as follows:

The defendant shall pay the fine imposed during his term of incarceration through participation in the Bureau of Prisons' Inmate Financial Responsibility Program in quarterly installments of \$25.

All other aspects of the judgment order previously imposed remains in full force and effect.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, defendant, the Probation Office of this court, and Debra Smith, c/o FCI Elkton, Federal Correctional Institution, P.O. Box 129, Lisbon, OH 44432.

IT IS SO ORDERED this 1st day of August, 2014.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge